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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,744	08/28/2001	Christopher Carl Wulforst	5308	5156

7590 03/27/2002
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EXAMINER

ROSENTHAL, DANIELLE S

ART UNIT PAPER NUMBER

3644

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/940,744	WULFORST ET AL.	
	Examiner	Art Unit	
	Danielle S. Rosenthal	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

Application/Control Number: 09/940,744
Art Unit: 3644

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Referring to claim 5, it is unclear what the units of the rate are. The claim reads "at a rate of from about 1." Applicant discloses in the specification that the rate is "from about 1 ounce per square yard to about 3 ounces per square yard" (p. 4, line 8). It is unclear if applicant means this range in the claim or if applicant means just 1 ounce per square yard. Further if applicant means 1 ounce per square yard, the units of ounces per square yard need to be added to the claim.
3. Claim 8 recites the limitation "the activated charcoal" in page 6, line 21. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in-
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United

Application/Control Number: 09/940,744
Art Unit: 3644

States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1-4 and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Denesuk et al. (6,196,156). Referring to claims 1-4, Denesuk et al. disclose an animal bed encasing comprising an enclosure having a face textile 12 with an exterior surface and an interior surface and an odor receiving layer on the interior surface (Denesuk et al., col. 3, lines 7-10 and col. 28, lines 49-65, col. 29, lines 1-21). The odor receiving layer comprises either an absorbing agent or an adsorbing agent which is activated charcoal (Denesuk et al., col. 28, lines 49-65).
6. Referring to claims 9-12 and the aforesaid discussion on claim 1, Denesuk et al. disclose the claimed invention further including a backing material 14 and 18 disposed adjacent to the odor absorbing layer wherein said backing material comprises a backing textile (Denesuk et al., col. 9, lines 50-55 and col. 10, lines 29-41) wherein the backing textile comprises a point bonded nonwoven material or a film (Denesuk et al., col. 10, lines 34-59). It is noted that a film is interpreted as a thin coating and as such the disclosed foam can be considered a film.
7. Referring to claim 13 and the aforesaid discussion on claim 1, Denesuk et al. disclose the claimed invention wherein the film of the backing material comprises a low density polyester film (Denesuk et al., col. 10, lines 13-14). It is interpreted that a polyester fiber is a low density polyester.

Application/Control Number: 09/940,744
Art Unit: 3644

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5-8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denesuk et al. in view of Ryan et al. (5,019,062). Referring to claims 5-8, 14 and the aforesaid discussion on claim 1, Denesuk et al. disclose the claimed invention except for including the activated charcoal of about 100 x 150 particle screened size at a rate of 1 ounce per square yard. Ryan et al. disclose in a similar field of endeavor of odor control agents a material with an odor layer of activated charcoal which has a particle size of 2-4 microns (Ryan et al., col. 3, lines 48-52) and is applied with a hot melt adhesive at about 3 mg per sq. cm which is about 1 ounce per sq. yard (Ryan et al., col. 4, lines 19-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Denesuk et al. to include a micron particle size activated charcoal distributed at as 1 ounce per square yard for the purposes of providing the optimum size and distribution of the odor agents to adsorb odor. Although Ryan et al. do not specifically disclose a 100 X 150 particle screened size, a small particulate composition is disclosed and it would have been obvious to change the particle size in order to achieve an optimum particle size and range for adsorbing the odor. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the adhesive as film securing the

activated charcoal against the interior surface of the textile in Denesuk et al. since this would provide a secure bond between the odor agents and the bedding.

Conclusion

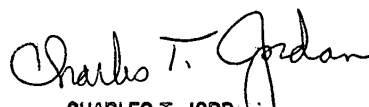
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Elkins et al. (4,649,861), Gunter (5,320,066), Feibus (5,685,257), Willinger (5,784,995), Licciardo (6,173,675), Trombetta et al. (6,177,605), and Ford (6,305,318) disclose animal mats or materials with odor agents.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danielle S. Rosenthal whose telephone number is (703) 305-2765. The examiner can normally be reached on M-Th & every other F, 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on (703) 308-2484. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600